



DEPARTMENT OF THE AIR FORCE
445th Airlift Wing
Wright-Patterson Air Force Base, Ohio
AIR FORCE RESERVE COMMAND

30 October 2021

MEMORANDUM FOR AF/SG

FROM: 2D LT MICHAEL J. POFFENBARGER

SUBJECT: Appeal of Religious Accommodation Request Denial

1. I am hereby requesting to appeal the denial of my religious accommodation request.
2. My personal identifying information and career data includes:
 - Social Security Number: 304-86-5080
 - Grade (Rank): O1 (2D LT)
 - Faith Group / Religious Affiliation: Christian
 - Unit: 455th OSS
 - Specialty Code (AFSC): 14N
3. Nature of Accommodation Request: I request exemption from the COVID-19 vaccine mandate as well as authorization to test for antibody and T-cell immunity to alleviate my superiors' concerns for my health.
4. Comment of Sincerely Held Belief: As a Christian I am compelled to consider the commandments of my Creator and evaluate my actions based on both short-term earthly concerns and the eternal. Murder is a sin as is participation in that murder. Expressed clearly in Chapter 20: Verse 13 from Exodus "Thou shalt not murder." From Genesis Chapter 9: Verses 6-7 "...in the image of God made he man. And you, be ye fruitful, and multiply..." All COVID-19 vaccines are associated with abortion. The J&J used abortion cell lines in the design, production, and testing phases (clinicaltrials.gov). The Pfizer and Moderna both used these cell lines in the testing phase (Nature, 5 August 2020, and Vogel et al., bioRxiv 8 September 2020). My faith makes it clear that the murder of innocents is a sin. It is a specific direction from my Creator that I will multiply and that all are made in the image of God. Abortion is absolutely contrary to these basic religious tenants; thus, I cannot engage in activities which are connected to this act. The act of murder can be perpetrated against others as well as oneself. Two of the three vaccines approved for emergency use, as well as the FDA-approved "COMIRNATY," functionally use mRNA to cause the recipient's cells to manufacture the S1 spike protein. That is the protein by which the body triggers an immune response, according to the Centers for Disease Control and Prevention (CDC). According to the CDC, the third emergency vaccine uses a viral vector instead of mRNA to enter the recipient's cells to produce the spike protein. The S1 spike protein is an unsafe human pathogen known to cause endothelial cell damage at minimum (www.ncbi.nlm.nih.gov/pmc/articles/PMC7758180). The available COVID-19 vaccinations have limited safety and side-effect data available to the public and are not approved by the US Food and Drug Administration (FDA) beyond Emergency Use Authorization (EUA). The FDA approved "COMIRNATY" is known to have "serious risks of myocarditis and pericarditis" and extant FDA programs are "NOT sufficient" to assess these risks (CBER Sentinel Program Sufficiency Memo: BNT162b2 (COVID-19 Vaccine)/STN 125742 p.7). In addition, since my initial request was made, recent studies produced in support of legal challenges to the COVID-19 vaccine mandate, described in paragraph 6 below, have produced affidavits and declarations reporting on various studies that raise serious medical concerns about the real safety of the vaccines and their impact on the forces' safety and an individual's health.
5. Explanation of Substantial Burden Placed on Your Expression of Religious Beliefs: I know that to accept

injection of any currently available or the FDA approved Comirnaty COVID-19 vaccinations would be a sin. I would be a willing and knowing participant in the murder of innocents. It is also my belief that using these technologies to force our bodies to manufacture this pathogenic protein is not a part of God's plan for our bodies. As I believe that to be a sin, even if I am wrong in my understanding, it would be a sin to accept any of these types of vaccines per the writing of Paul the Apostle from 1 Corinthians 6:19-20 "your body is the temple of the Holy Ghost...therefore glorify God in your body..." Finally, Romans Chapter 14, Verse 23 "...he that doubteth is damned...for whatsoever is not of faith is sin." Living and especially dying is sin pays a horrendous eternal wage, which, if born of fear, would mock my parents and grandparents, generations of true martyrs, and my Lord and Savior Jesus Christ. Additionally, the threat and real possibility of being subject to disciplinary action and/or separated because I exercised my right to freely express and follow my faith and religious beliefs is an illegal substantial burden on my expression of that religious belief. It is well-established law that requiring a person to give up or substantially modify their religious belief to be able to pursue a government job or career is forbidden under the First Amendment.

Where the state conditions receipt of an important benefit upon conduct proscribed by a religious faith, or where it denies such a benefit because of conduct mandated by religious belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his beliefs, a burden upon religion exists. While the compulsion may be indirect, the infringement upon free exercise is nonetheless substantial.

Thomas v. Review Bd., 450 U.S. 707, 717–18 (1981); *see also Sherbert v. Verner*, 374 U.S. 398, 404 (1963) ("It is too late in the day to doubt that the liberties of religion and expression may be infringed by the denial of or placing of conditions upon a benefit or privilege"). Furthermore, the government's imposition of a negative employment action as a "negative reward" for the exercise of a protected right is retaliation, also forbidden under the First Amendment and numerous DOD and Air Force regulations.

6. Any Other Material You Feel is Pertinent: In a memorandum dated 22 October 2021, Lieutenant General Scobee acknowledges the sincerity of my religious beliefs, but cites risk to the mission, health and readiness, as well as lack of a less restrictive means of protecting the force from COVID-19 as basis to deny my request for religious accommodation. Regular testing, protective measures, and natural immunity have allowed our forces to accomplish the mission throughout the COVID-19 Pandemic. Since EUA was given, the vast majority of Airmen have been fully vaccinated. The few individuals not yet vaccinated would not pose a threat to "herd immunity", a recognized medical phenomena and important consideration, especially if they had prior exposure and thus natural immunity to COVID-19. No explanation is given as to why herd immunity is not important or applicable in the current situation. Individuals vaccinated against COVID-19 are known to acquire, spread, and suffer with COVID-19 unlike those vaccinated against other communicable diseases that the Department of Defense (DoD) requires vaccination for individual medical readiness. The only FDA approved vaccine, COMIRNATY is not the same as the Pfizer-BioNTech COVID-19 vaccine currently available under EUA. The FDA's letter to Pfizer acknowledges that COMIRNATY and the Pfizer-BioNTech COVID-19 vaccine "are legally distinct" and that COMIRNATY is not available for distribution to the public in the same letter (23 August 2021 and 29 October 2021). Consequently, the vaccine mandate is ordering me to take something which is not available. The other vaccines are approved only for emergency use which requires "informed consent" and the right to refuse vaccination. That right is embodied in 21 U.S.C. § 360bbb-3(e)(1)(A)(ii)(I)-(III). Forcing or punishing me for insisting on my statutory and constitutional rights is retaliation, forbidden by the First Amendment and DOD and Air Force regulations. DoD regulations and the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb, require DoD Agencies to have a compelling purpose and use the least restrictive means to achieve that purpose in burdening the free exercise of military personnel. The Air Force cannot claim mandatory vaccination is narrowly tailored or the least restrictive means to achieve its compelling purpose. *Any such claims are undercut by the failure to test, quarantine, and vaccinate the tens of thousands of Afghan refugees now residing in numerous military posts, bases, and facilities.* If vaccination were such a compelling purpose, vaccinating these persons would be the first priority once they came under the control of the United States government or arrived at a US facility/installation. Two recent class action legal challenges to the mandate have provided affidavits, declarations, other exhibits, and reports which question the safety and the truthfulness of the reporting of the serious side effects of the vaccines. LTC Teresa Long, M.D., an Army Flight surgeon, filed an affidavit in *Dan Robert, et al. v. Lloyd Austin*, case 21-CV-2228 in the District of Colorado supporting an injunction against the mandate based on the unreported and serious medical impact of the vaccine. It is attached as exhibit 1. On October 15, 2021, *Navy Seal 1, et al., v. Joseph Biden, et al.*, 8:21-CV-02429, was filed in the Middle District of Florida. It contains a "Declaration of Doctor Peter McCullough MD,

MPH in Support of Plaintiffs' Petition for Preliminary Injunction." Its 211 pages also raise serious medical issues and cites numerous reports showing the vaccines have side effects which have not been properly reported to the public. These reports should be seriously evaluated before mandating a vaccine with side effects that could seriously undermine the Air Force's vital mission. Denial of my request to accommodate a sincere religious conviction with over 2000 years of history for reasons of readiness, health and safety, and mission risk should be reversed based upon the availability of less restrictive options and the concerns posed by the DoD's own medical professionals.

A handwritten signature in black ink, reading "Michael J. Poffenbarger". The signature is fluid and cursive, with a long horizontal stroke at the end.

MICHAEL J. POFFENBARGER
Second Lieutenant, USAF
445th OSS/IN